IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 27315 of 2007(B)

AGAINST THE ORDER IN EP 1318/2004 IN OS.3136/2001 of II ADDL.M.C.,THRISSUR

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PETITIONER:

SUNNY, S/O.RAPPAI, AGED 43 YEARS,
CHIRIYANKANDATH HOUSE, PALAKKAL, THRISSUR.

BY ADV. SRI.K.A.SREEJITH

RESPONDENT:

MAHASUDARSANAM CORPORATION,
REPRESENTED BY ITS RECEIVER,
ADVOCATE C.K.KUNJUPORINCHU, IP 8/98 SUB COURT,
THRISSUR.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N.KRISHNAN, J

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W.P.(C) No.27315 OF 2007

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Dated this the 13th day of September 2007

JUDGMENT

This writ petition is filed to set aside the order of the II Addl.Munsiff's Court, Thrissur in E.P.No.1318/2004 in O.S.No.3136/2001. It appears that the learned Munsiff has not totally applied her mind to the relevant provisions before issuing warrant of arrest. It may appear from her order that she is not prepared to believe that DW1 is not going for any work. According to the learned Munsiff, since he has his family and children he is having the means to pay. I think the said approach is not in conformity with law, especially when it affects the civil right of a person. Therefore the order suffers from serious legal infirmity. So far as the 2nd judgment debtor is concerned, the court just states that PW1 has stated and orders arrest. The matter requires detailed consideration.

Therefore, the order under challenge is set aside even without notice to the decree holder. The court below is directed to restore the matter and permit all the parties to produce documents and adduce evidence in support of their contentions and on satisfaction of the means, the court may proceed

in accordance with law. Since the writ petition is disposed of at the admission stage itself, the court below is directed to give notice to the decree holder and then fix a date for hearing. Parties are directed to appear before the court below on 22.10.2007.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-